



Attorney Docket No. 40018-0002
Serial No. 09/675,734

Remarks

The Office has required restriction to one of the following groups of inventions under 35 U.S.C. § 121:

Group I: claims 1-9, drawn to a system for treating starch-based potato process water, classified in class 210, subclass 641; and

Group II: claims 10-27, drawn to a method for treating potato process water, classified in class 426, subclass 473.

The Office argues that Groups I and II are distinct because the apparatus of Group I can be used to practice another and materially different process, e.g., for use in treating an aqueous extract containing anthocyanins. The Office concludes that restriction is proper because the inventions are distinct for this reason and because the inventions have acquired a separate status in the art as shown by their different classification.

Applicants elect, with traverse, to prosecute the invention of Group I, claims 1-9. Applicants do NOT traverse the Office's classification of the groups of inventions as distinct, merely the reasoning behind the Office's classification.

As to restriction between Groups I and II, Applicants disagree that the Office has met its burden of showing that the system as claimed can be used to practice another and materially different process. Citing U.S. Patent No. 4,083,779, the Office contends that the claimed system can be used to carry out the method disclosed in this patent, e.g., treating an aqueous extract containing anthocyanins. The '779 Patent, however, discusses processing temperatures of 45 to 75 degrees F (see column 2, line 54 and column 3, lines 67-68), whereas the claimed system contains components that operate at much higher temperatures. Thus, it is unlikely that the Office has properly established that the claimed system can be used to practice such methods.



For these reasons, the Office has not established a proper restriction requirement between Groups I and II.

Conclusion

For the above reasons, Applicants respectfully request the Office to withdraw the restriction requirement and examine the pending claims.

If there is any fee due in connection with the filing of this Response, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 18-0013/40018-0002.

Respectfully Submitted,

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